IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6096 OF 2003

Pradeep Shyamsunder Beldar .... Petitioner

versus

Pune Municipal Corporation & ors.... Respondents.

Mr. P.B.Shaligram adv. for the petitioner.
Mr. V.G.Mujumdar adv. for respondents 1 and 2.
Mr. A.P.Vanarse AGP for respondent no.3.

CORAM; V.G. PALSHIKAR &
V.R.KINGAONKAR, JJ.

DATED; MARCH 13, 2006.

JUDGMENT ; **(Per Palshikar, J.)**

1. The petitioner has, by this petition, prayed for quashing of the order dated 5-9-2003 passed by the Municipal Commissioner of Pune Municipal Corporation reverting the petitioner from the post of Deputy City Engineer to the post of Assistant Engineer. Rule was granted and the order of reversion was stayed.

2. The petitioner was employed by the Corporation as Junior Engineer on 1-7-1986. At that time he was holding diploma in Civil Engineering. Then the petitioner was promoted to the post of Sub Engineer on

1-9-1995 and to the post of Deputy City Engineer on 26-3-2002. During this period, the petitioner acquired the degree of Bachelor of Architecture and then went on acquiring the post graduate degree of M.E. (Civil) in the branch of Town & Country Planning. After acquiring his education, the petitioner contended that he is degree graduate in the employment of the municipality and therefore liable to be considered in the category of list of graduate employees. This request was then accepted by the municipality and the petitioner was so shown in the list of degree holders. On the basis of such showing the petitioner was promoted to the post of Deputy City Engineer and was at the relevant time functioning as Deputy City Engineer.

3. One Mr. Salunke who was working as Assistant Engineer was also considered for promotion independently from the cadre of diploma holders to the post of Deputy City Engineer by the Municipal Corporation. However though he was selected and recommended for appointment, factual appointment order was not issued. He therefore filed Writ Petition No. 8593 of 2003 in this court. By the very order of 3-9-2003 by the Municipal Commissioner held that the inclusion of the name of the petitioner in the list of degree holders was not on correct assemption that his degree is not equated to degree in Engineering. It was

therefore ordered that he be reverted. In obedience of this Resolution of the Corporation, the petitioner was reverted which is impugned by the petitioner in the present petition.

4. The fact that the petitioner while employed by the Corporation as Junior Engineer, has acquired the degree in Bachelor of Architecture and thereafter degree of M.E. Civil Town & Country Planning is not disputed. The degree of M.E. Civil Town and Courty Planning is treated by the Pune University as Post graduate degree, which can be acquired by M.E. Civil, Structural Engineer, Soil Mechanicals and Construction Management Engineers. The basic degree necessary for the three other branches of M.E.(Civil) is either B.E. (Civil) or Bachelor of Architecture. These three degrees were therefore considered as the eligibility criteria for promotion.

5. Even the Government of Maharashtra has stated that the degree of B.Arch. is equivalent to other similar degree of Bachelor of Engineering (Civil). The submission of the Municipal Corporation in such circumstances, that the degree held by the petitioner is not similar to that of Civil Engineer is baseless and incorrect in law. Its refusal is based on such incorrect interpretation of law and is therefore

unsustainable in law and therefore deserves to be quashed.

6. In the result, the petition succeeds and is allowed. The impugned order is set aside.

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